

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXASCLERK US DISTRICT COURT
NORTHERN DIST. OF TX
FILED

2014 FEB -4 PM 3:03

DEPUTY CLERK aaaRichard A. Eley
Plaintiff**3-14CV0436-L**

v.

Civil Action No.

Waffle House
DefendantCOMPLAINT

On December 1, 2013 at 5:30PM, I was involved in a work injury that involved treatment and a Workers Compensation Claim was filed. My employer, Jamie Brewer, regarded me as having a physical impairment and kept me off the work schedule even though I was able to return to work after treatment.

On December 16, 2013 at 11:57AM, I called my Waffle House Corporate Office and spoke with Svetlana Chuliy from the Legal Department and complained about the discrimination. She advised she would gather information then call me back. She never contacted me and I was subsequently fired without notification as retaliation for complaining. I discovered my termination by calling the Texas Workforce Commission as a result of my reduced work hours.

* Attach additional pages as needed.

Date 2/4/2014
Signature Richard A Eley
Print Name Richard A. Eley
Address 742 Mission Lane
City, State, Zip Lancaster, TX 75146
Telephone (214) 881-5358

RECEIVED

The JS-44 civil coversheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Richard A. Eley
742 Mission Lane
Lancaster, Texas 75146

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

Dallas County, Texas

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

Waffle House
5986 Financial Drive
Norcross, Georgia 30071-2997

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE:

IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

3-14CV0436-L

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- (For Diversity Cases Only)
- | | | | | | |
|---|---------------------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input checked="" type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable Sat. TV <input type="checkbox"/> 850 Securities Commodities Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S)

PENDING OR CLOSED: (See Instructions)

JUDGE

Richard Eley

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

Print

Save As...

Reset

OFFICIAL RECEIPT

DALLAS COUNTY OFFICIAL RECEIPT GARY FITZSIMMONS, DISTRICT CLERK
Case 3:14-cv-00436-LBH Document 3 Filed 02/04/14 Page 3 of 7 PageID 7

Payor
RICHARD AGREATT ELEY


Receipt No.
5809-2014-DCLK

Transaction Date
02/3/2014

Description	Amount Paid
Miscellaneous Payment	
MISCELLANEOUS ITEMS	6.00
SUBTOTAL	6.00
PAYMENT TOTAL	6.00
CASH Tendered	6.00
Total Tendered	6.00
Change	0.00
02/03/2014 03:45 PM	Cashier Station DC126
	Audit 57200395

OFFICIAL RECEIPT

CARMEN MCORRER



Cause Number: _____

(The Clerk's office will fill in the Cause Number when you file this form.)

In the (check one):

Petitioner/
PlaintiffRichard Eley

(Court Number)

- ☐ District Court
☐ County Court at Law
☐ Justice of the Peace

Respondent/
DefendantWaffle HouseDallas
(County)

County, Texas

Affidavit of Indigency

(Request to Not Pay Court Fees)

Use this form to ask the court not to charge you for court fees. This form is also called an "Affidavit of Inability to Pay Court Costs" or a "Pauper's Oath." You can only use this form if: (1) you get public benefits because you are poor or (2) you can't pay court fees.

The information you give on this form must be current, complete, true and correct.

You must either 1) sign this form in front of a notary public or 2) sign this form and sign and attach a completed "Unsworn Declaration" form. By signing in front of a notary, you swear under oath that the information provided is true and correct. By signing and attaching an "Unsworn Declaration" form, you declare under penalty of perjury that the information provided is true and correct.

You can be prosecuted if you lie on this form.

The court may or may not approve this request to not pay court fees. The court may order you to answer questions about your finances at a hearing. At that hearing you will have to present evidence to the judge of your income and expenses to prove that you have no ability to pay court fees.

① The person who signed this affidavit appeared, in person, before me, the undersigned notary, and stated under oath:

"My name is Richard Eley

My phone number is (214) 881-5358

"My mailing address is 742 Mission Lane, Lancaster, Texas 75146

"I am above the age of eighteen (18) years, and I am fully competent to make this affidavit. I am unable to pay court costs. The nature and amount of my income, resources, debts, and expenses are described in this form.

Check ALL boxes that apply and fill in the blanks describing the amounts and sources of your income.

② "I receive these public benefits/government entitlements that are based on indigency:

- ☐ SSI ☐ WIC ☐ Food Stamps/SNAP ☐ TANF ☐ Medicaid ☐ CHIP ☐ AABD
☐ Needs-based VA Pension ☐ County Assistance, County Health Care, or General Assistance (GA)
☐ LIS in Medicare ("Extra Help") ☐ Community Care via DADS ☐ Low-Income Energy Assistance
☐ Emergency Assistance ☐ Child Care Assistance under Child Care and Development Block Grant
☐ Public Housing ☒ Other: (Describe) N/A

If you receive any of the above public benefits, attach proof and label it "Exhibit: Proof of Public Benefits"

③ "My income sources are stated below. (Check all that apply)

☒ Unemployed since:
(date)

12/10/2013

-or-

☐ Wages: I work as a

Your job title

for

Your employer

- ☐ Child/spousal support ☐ My spouse's income or income from another member of my household (if available)
☐ Tips, bonuses ☐ Military Housing ☐ Worker's Comp ☐ Disability ☐ Unemployment ☐ Social Security
☐ Retirement/Pension ☐ Dividends, interest, royalties ☐ 2nd job or other income: _____
 (describe)

④ "My income amounts are stated below.

- (a) My monthly net income after taxes are taken out is:
 (b) The amount I receive each month in public benefits is:
 (c) The amount of income from other people in my household is:
 (d) The amount I receive each month from other sources is:
 (e) My TOTAL monthly income is

Total income after taxes →	\$	<u>0</u>
Total amount received →	+	\$ <u>0</u>
Total amount received →	+	\$ <u>0</u>
Total amount received →	+	\$ <u>0</u>
Add all sources of income above →	=	\$ <u>0</u>

*List this income only if other members contribute to your household income.

⑤ About my **dependents**: "The people who depend on me financially are listed below:

Name	Age	Relationship to Me
1 <u>Shalonda Eley</u>	<u>16</u>	<u>Daughter</u>
2 <u>Isaiah Eley</u>	<u>14</u>	<u>Son</u>
3 <u>Anthony Eley</u>	<u>5</u>	<u>Son</u>
4 <u>Meaghan Eley</u>	<u>3</u>	<u>Daughter</u>
5 _____	_____	_____
6 _____	_____	_____

⑥ "My property includes:

	Value*
Cash	\$ <u>38⁰⁰</u>
Bank accounts, other financial assets (List)	
<u>checking</u>	\$ <u>33⁰⁰</u>
<u>saving</u>	\$ <u>5⁰⁰</u>
	\$ _____
Vehicles (cars, boats) (List make and year)	
<u>Toyota Camry 2000</u>	\$ <u>6,000</u>
	\$ _____
	\$ _____
Real estate (house or land) (Do not list the house you live in.)	
<u>house</u>	\$ <u>90,000</u>
	\$ _____
Other property (like jewelry, stocks, etc.) (Describe)	
<u>N/A</u>	\$ <u>0</u>
	\$ _____

⑦ "My monthly expenses are:

	Amount
Rent/house payments/maintenance	\$ <u>0</u>
Food and household supplies	\$ <u>50⁰⁰</u>
Utilities and telephone	\$ <u>100⁰⁰</u>
Clothing and laundry	\$ <u>0</u>
Medical and dental expenses	\$ <u>0</u>
Insurance (life, health, auto, etc)	\$ <u>0</u>
School and child care	\$ <u>0</u>
Vehicle payments	\$ <u>0</u>
Gas, bus fare, auto repair	\$ <u>20⁰⁰</u>
Child / spousal support	\$ <u>600⁰⁰</u>
Wages withheld by court order	\$ <u>600⁰⁰</u>
Debt payments	\$ <u>0</u>
Other expenses (Describe)	\$ <u>0</u>
	\$ _____
	\$ _____
	\$ _____

Total value of property → = \$96,000

Total monthly Expenses → = \$750⁰⁰

*The value is the amount the item would sell for less the amount you still owe on it (if anything).

⑧ "My debts include: List debt and amount owed. N/A

To list any other facts you want the court to know, such as unusual medical expenses, family emergencies, etc., attach another page to this form and label it "Exhibit: Additional Supporting Facts." Check here if you attach another page. ☐

⑨ "I am unable to pay court costs. I verify that the statements made in this affidavit are true and correct."

⑩ Your Signature. You must either: 1) sign this form in front of a notary public or
2) sign this form and sign and attach a completed "Unsworn Declaration" form

Richard Eley
Your Signature

2/3/2014
Date

State of Texas

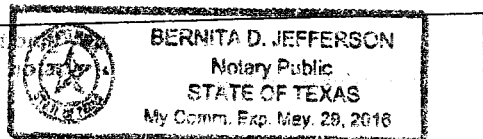
County of Dallas

Print the name of county where this Affidavit is notarized.

Sworn to and subscribed before me today, February 3, 2014 by Richard Eley

Bernita D. Jefferson
Notary's Signature

Notary Publics can sign this form in front of a Notary Public.



Richard Eley
Print name of person who is signing this Affidavit.
NOT the notary's name.

Cause Number:

(The Clerk's office will fill in the Cause Number when you file this form.)

In the (check one):

Petitioner/
PlaintiffRichard Eley

(Court Number)

- ☐ District Court
☐ County Court at Law
☐ Justice of the Peace

Respondent/
DefendantWaffle HouseDallas
(County)

County, Texas

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"My name is Richard Eley My phone number is (214) 881-5358

"My mailing address is 742 Mission Lane, Lancaster, Texas 75146

"I am above the age of eighteen (18) years, and I am fully competent to make this affidavit. I am unable to pay court costs. The nature and amount of my income, resources, debts, and expenses are described in this form.

Check ALL boxes that apply and fill in the blanks describing the amounts and sources of your income.

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☐ Needs-based VA Pension ☐ County Assistance, County Health Care, or General Assistance (GA)
☐ LIS in Medicare ("Extra Help") ☐ Community Care via DADS ☐ Low-Income Energy Assistance
☐ Emergency Assistance ☐ Child Care Assistance under Child Care and Development Block Grant
☐ Public Housing ☒ Other: (Describe) N/A

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③ "My **income sources** are stated below. (Check all that apply)

- ☒ Unemployed since: 12/10/2013 -or-
 (date) for
☐ Wages: I work as a _____ Your job title _____ Your employer _____

- ☐ Child/spousal support ☐ My spouse's income or income from another member of my household (if available)
☐ Tips, bonuses ☐ Military Housing ☐ Worker's Comp ☐ Disability ☐ Unemployment ☐ Social Security
☐ Retirement/Pension ☐ Dividends, interest, royalties ☐ 2nd job or other income: _____ (describe)

④ "My **income amounts** are stated below.

- (a) My monthly net income after taxes are taken out is:
 (b) The amount I receive each month in public benefits is:
 (c) The amount of income from other people in my household is: *
 (d) The amount I receive each month from other sources is:
 (e) My TOTAL monthly income is

Total income after taxes → \$ 0
 Total amount received → + \$ 0
 Total amount received → + \$ 0
 Total amount received → + \$ 0
 Add all sources of income above → = \$ 0

*List this income only if other members contribute to your household income.

⑤ About my **dependents**: "The people who depend on me financially are listed below:

Name	Age	Relationship to Me
1 Shalonda Eley	16	Daughter
2 Isaiah Eley	14	Son
3 Anthony Eley	5	Son
4 Meaghan Eley	3	Daughter
5		
6		

⑥ "My property includes:

	Value*
Cash	\$ 38.00
Bank accounts, other financial assets (List)	
checking	\$ 33.00
saving	\$ 5.00
	\$
Vehicles (cars, boats) (List make and year)	
Toyota Camry 2000	\$ 6,000
	\$
	\$
Real estate (house or land) (Do not list the house you live in.)	
house	\$ 96,000
	\$
Other property (like jewelry, stocks, etc.) (Describe)	
N/A	\$ 0
	\$

⑦ "My monthly expenses are:

	Amount
Rent/house payments/maintenance	\$ 0
Food and household supplies	\$ 50.00
Utilities and telephone	\$ 100.00
Clothing and laundry	\$ 0
Medical and dental expenses	\$ 0
Insurance (life, health, auto, etc)	\$ 0
School and child care	\$ 0
Vehicle payments	\$ 0
Gas, bus fare, auto repair	\$ 20.00
Child / spousal support	\$ 600.00
Wages withheld by court order	\$ 0
Debt payments	\$ 0
Other expenses (Describe)	\$ 0
	\$
	\$
	\$

Total value of property → = \$96,000

Total monthly Expenses → = \$ 750.00

*The value is the amount the item would sell for less the amount you still owe on it (if anything).

⑧ "My debts include: List debt and amount owed. N/A

To list any other facts you want the court to know, such as unusual medical expenses, family emergencies, etc., attach another page to this form and label it "Exhibit: Additional Supporting Facts." Check here if you attach another page. ☐

⑨ "I am unable to pay court costs. I verify that the statements made in this affidavit are true and correct."

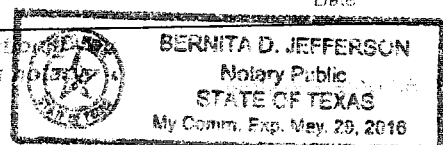
⑩ Your Signature. You must either: 1) sign this form in front of a notary public or
2) sign this form and sign and attach a completed "Unsworn Declaration" form.

Richard Eley
Your Signature

2/3/2014
Date

State of Texas
County of Dallas
Print the name of county where this Affidavit is notarized.

Notary fills out this section
are signing in front of a notary



Sworn to and subscribed before me today, February 3, 2014, by Richard Eley

Date

Print name of person who is signing this Affidavit.
NOT the notary's name.

Bernita Jefferson
Notary's Signature